

JAN 07 1986

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

Bruce Hector, Esq.
Benton Dickinson & Company
Stanley Street
Rutherford, New Jersey 07070

Re: In the Matter of Benton Dickinson & Company
Docket No. II RCRA-85-0108

Dear Mr. Hector:

Enclosed is a copy of the Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Administrator of the U.S. Environmental Protection Agency.

Thank you for your cooperation in this matter.

Sincerely yours,

Thomas E. Lieber
Assistant Regional Counsel
Office of Regional Counsel

Enclosure

cc: Gerard Burke, Esq.
New Jersey State Department
of Environmental Protection

bcc: Sandra Crystall (WH-527)
Laura Livingston, 2 PW-PA
Thomas Solecki, 2 AWM-SW
Ronald Gherardi, 2 PW-FIN
Nereida S. Sotomayor, 2 RHC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

-----X
:
In the Matter of :
:
:
BECTON DICKINSON & COMPANY : CONSENT AGREEMENT
RUTHERFORD, NEW JERSEY 07073 :
NJDO00304782 : AND
:
:
Respondent. : CONSENT ORDER
:
Proceeding Under Section 3008 of the: Docket No. II RCRA-85-0108
Resource Conservation and Recovery :
Act, as amended. :
-----X

PRELIMINARY STATEMENT

This administrative proceeding was instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 ("RCRA") and the Hazardous and Solid Waste Disposal Act of 1984, 42 U.S.C. §6901 et seq.

Section 3006(b) of RCRA, 42 U.S.C. §6926(b), provides that the Administrator of the U.S. Environmental Protection Agency ("EPA") may, if certain criteria are met, authorize a State to operate a hazardous waste program in lieu of the federal program. The Administrator authorized the State of New Jersey to operate a program in lieu of the federal program on February 21, 1985. Section 3008 of RCRA, 42 U.S.C. §6928, authorized EPA to enforce the provisions of the authorized State program.

The Director of the Air and Waste Management Division of the EPA, Region II, Complainant in this proceeding, issued a Complaint, Compliance Order, and Notice of Opportunity for Hearing to Respondent, BECTON DICKINSON & COMPANY on May 31, 1985. Said document charged Respondent with certain violations of the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E et seq., and the regulations promulgated thereunder, as follows:

1. Respondent owns and operates a facility located at Stanley Street, Rutherford, New Jersey ("the facility"), and is a "person" as that term is defined in §1004(15) of RCRA, 42 U.S.C. §6903(14), and in N.J.A.C. 7:26 - 1.4.

2. By notification dated August 18, 1980, Respondent informed EPA that it conducts activities at the facility involving "hazardous waste," as the term is defined in Section 1004(5) of RCRA, 42 U.S.C. §6903(5) and in 40 CFR §261.3. By application dated December 5, 1980, Respondent requested a permit to conduct its hazardous waste activities.

3. N.J.A.C. Title 7, Chapter 26, sets standards for hazardous waste treatment, storage and disposal facilities.

4. N.J.A.C. 7:26 - 9.8 requires the owner or operator of a hazardous waste treatment, storage or disposal facility to prepare and maintain at the facility a copy of a plan to close the facility in a manner that minimizes or eliminates the post-closure escape of hazardous waste or waste constituents. This section also sets forth elements that must be included in a closure plan.

5. N.J.A.C. 7:26 - 9.10(e) requires that the owner or operator of a hazardous waste facility have a written estimate of the cost of closing the facility. This section also sets forth elements that must be included in the cost estimate.

6. Section 3007 of RCRA, 42 U.S.C. §6927, allows EPA to request certain information from parties that handle hazardous waste. On or about February 7, 1985, EPA requested that Respondent submit a copy of its closure plan and cost estimate for review.

7. On or about March 1, 1985, the Respondent submitted a copy of the closure plan/cost estimate to EPA. Based on EPA's review of the closure plan/cost estimate, EPA determined that Respondent did not provide sufficient information to meet the requirements of N.J.A.C. 7:26-9.8 and 9.10, respectively. In an Exhibit attached to the Complaint and Notice of Opportunity for Hearing, EPA informed Respondent of deficiencies requiring corrective action to comply with N.J.A.C. 7:26-9.8 and 9.10.

8. Respondent met with EPA on July 19, 1985. During the meeting, Respondent provided EPA with arguments and information supportive of a modification of the proposed penalty. Specifically, Respondent has demonstrated good faith efforts to comply with the Regulations, N.J.A.C. 7:26-9.8 and 9.10, by promptly retaining the services of a consultant to devise a proper closure plan and cost estimate in accordance with the regulations.

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 3008 of RCRA, and Section 22.18 of the Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR §22.18, it is hereby agreed as follows:

1. Within thirty (30) calendar days of its receipt of a signed and executed copy of this Consent Agreement and Consent Order, Respondent shall submit to EPA a closure plan and cost estimate for its facility which meets the requirements of N.J.A.C. 7:26-9.8 and 9.10.

2. Respondent shall hereinafter comply with all relevant regulations at N.J.A.C. Title 7, Chapter 26. In particular, should Respondent's facility change its operating plans, facility design, or year of closure, the closure/post-closure plan and associated cost estimate shall be amended within sixty (60) days of such changes pursuant to N.J.A.C. 7:26-9.8(f)(1), and 7:26-9.10(e) and (f).

3. All documentation submitted to EPA pursuant to this Consent Agreement and Consent Order shall be sent, by certified mail to:

Tom Solecki
Environmental Engineer
Solid Waste Branch
Air and Waste Management Division
U.S. Environmental Protection Agency
Region II
26 Federal Plaza, Room 1000
New York, New York 10278

4. Respondent shall pay, by cashier's or certified check, a civil penalty for the violations cited herein in the amount of three thousand three hundred dollars (\$3,300.00), payable to the Treasurer, United States of America, within sixty (60) calendar days of receipt of a signed and executed copy of this Consent Agreement and Consent Order. This payment shall be remitted to the EPA - Region II, (Regional Hearing Clerk), P.O. Box 360188M, Pittsburgh, Pennsylvania, 15251.

a. Failure to pay the penalty in full according to the above provisions or to comply with any other provision of this Consent Agreement and Consent Order will result in referral of this matter to the United States Attorney for possible legal action in the appropriate District Court of the United States.

b. Furthermore, if payment is not received by the date established herein, interest will be assessed on the overdue payment for each thirty day period or portion thereof until payment is received. Interest charges will be based on the current value of funds to the U.S. Treasury at the time when the Order is issued. Interest will be assessed until payment is received.

5. This Consent Agreement is being entered into by the parties in full settlement of all liabilities which might have attached as a result of the proceedings. Respondent has read the foregoing Agreement, believes it to be reasonable, and consents to its issuance and its terms. Respondent admits the jurisdictional allegations and does not admit or deny any of the

specific factual allegations contained in the Complaint.

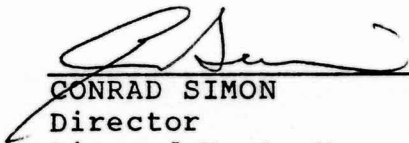
Furthermore, Respondent explicitly waives its right to request a hearing on this matter, and agrees to pay the penalty called for in paragraph 4 above.

RESPONDENT:


BECTON DICKINSON & COMPANY

DATE: OCTOBER 10, 1985


COMPLAINANT:


CONRAD SIMON
Director
Air and Waste Management
Division
U.S. Environmental Protection
Agency, Region II

DATE: December 24, 1985

CONSENT ORDER

The Regional Administrator of EPA, Region II, concurs in the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved and issued, effective immediately.


CHRISTOPHER J. DAGGETT
Regional Administrator
U.S. Environmental Protection
Agency, Region II
26 Federal Plaza
New York, New York 10278

DATE: December 24, 1985

EXHIBIT A

BECTON DICKINSON & COMPANY
EPA I.D. NO. NJD000304782

The following deficiencies and/or omissions have been noted in Becton Dickinson & Company's closure plan and closure cost estimate dated March 31, 1984.

FACILITY CONDITION

*CP Memo
12-13-85*

- ° Description of the facility and of those operations which generate hazardous waste ✓
- ° Description of tanks containing hazardous waste including capacity, location (above or below ground) and the specific waste type stored in each tank. This information must reflect that which is listed in the Part A application
- ° Description of container storage area, including size, location and supporting surface material and the maximum quantity of waste stored
- ° Inventory of auxiliary equipment needed to implement closure plan
- ° Milestone chart for final closure, including dates for final generation of waste, completion of inventory removal, date of final decontamination of the facility and completion of closure
- ° Estimate of the year of closure
- ° Closure certification

REMOVING ALL INVENTORY/WASTE

- ° Quantity of decontamination residues and wastewater
- ° Estimate of the quantity of contaminated soil, or justification that such an estimate is not necessary
- ° Distance to off-site TSDF

DECONTAMINATING THE FACILITY

- ° Area of the facility with potential soil contamination (i.e., container storage area, tank storage areas, and loading and unloading areas) or justification for assuming areas are not contaminated
- ° Soil sample test locations, depths, analysis, parameters and rationale for selection of those parameters
- ° Methods and procedures for removing and disposing of any contaminated soil
- ° Methods and parameters for decontamination of any auxiliary equipment
- ° Procedures and parameters for decontamination of tanks and container storage area
- ° Methods for disposal of decontamination wastewater and residues

COST ESTIMATE

Substantiation and itemization of closure cost estimate to ensure proper estimation. This estimate should include the following items which were missing from the cost estimate submitted:

- ° Soil testing, removal and disposal
- ° Disposal of any wastewater and residues generated as a result of the decontamination process of tanks, container storage, and auxiliary equipment, etc.
- ° Professional engineer's certification of closure
- ° Contingency costs

CERTIFICATE OF SERVICE

This is to certify that on the 31 day of May 1985, I served a true and correct copy of the foregoing Complaint by certified mail to Mr. George Reisch, Stanley Street, Rutherford, New Jersey 07073. I handcarried the original foregoing Complaint to the Regional Hearing Clerk.

Nichelo Lombardi
May 31, 1985